

**KUTAK ROCK LLP**

Peter J. Barrett (VSB No. 46179)  
901 East Byrd Street, Suite 1000  
Richmond, Virginia 23219  
(804) 644-1700  
*Chapter 7 Trustee*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

_____	)	
In re:	)	Chapter 7
	)	
DAVID WAYNE SCHNEIDER,	)	Case No. 21-30347 (KLP)
	)	
	)	
Debtor.	)	
_____	)	

**APPLICATION TO EMPLOY KUTAK ROCK LLP AS COUNSEL FOR THE TRUSTEE**

Peter J. Barrett, Trustee for the Bankruptcy Estate of David Wayne Schneider (the “Trustee”), pursuant to 11 U.S.C. § 327 and Rule 2014 of the Rules of Bankruptcy Procedure, hereby requests this Court authorize the employment of Kutak Rock LLP (“Kutak Rock LLP”) as counsel for the Trustee and the estate of David Wayne Schneider (the “Debtor”) in the above-captioned case and in support thereof, states as follows:

**Background**

1. On or about February 2, 2021 (the “Petition Date”), the Debtor filed for relief pursuant to Chapter 7 of the Bankruptcy Code, 11 U.S.C. §§ 101, *et seq.* (the “Bankruptcy Code”).
2. Peter J. Barrett, Trustee (the “Trustee”) was appointed interim trustee and serves as Trustee in this case.

**Basis for Relief**

3. The Trustee requires the assistance of legal counsel to analyze and potentially pursue potential causes of action on behalf of the Trustee and to assist in the recovery and disposition of various assets. The engagement will consist primarily of the aforementioned duties,

however, if approved, Kutak Rock LLP may also provide services related to any other matters for which the Trustee believes legal representation is needed and all matters the Trustee may assign to proposed counsel.

**Attorneys to be Engaged**

4. Due to the experience and expertise of its attorneys in bankruptcy, creditors' rights, litigation and other matters similar to the issues presented in this Case, the Trustee seeks to employ the law firm of Kutak Rock LLP. The proximity of the attorneys at Kutak Rock LLP to the Trustee will permit a more efficient delivery of legal services and prompt communication with the Trustee, which should result in an economy of expenses to the estate and a corresponding increase in recovery for the estate.

5. The Trustee proposes to compensate Kutak Rock LLP for its services in accordance with Kutak Rock LLP's normal billing practice, which is to record and bill the time of Kutak Rock LLP's professionals at the Firm's regular hourly rates for its partners, associates and paralegals. Generally, for engagements of this type in Virginia, the range of Kutak Rock LLP's hourly rates are between \$500 and \$630 per hour for partners, \$350 for associates, and \$155 to \$195 for paralegals. Kutak Rock LLP's rates are reviewed, and when deemed appropriate, adjusted annually. Kutak Rock LLP will utilize paralegals from time to time where the tasks required can be accomplished by a paralegal with a corresponding reduction in the applicable hourly rate. The Trustee will also reimburse Kutak Rock LLP for its out-of-pocket expenses incurred in connection with the engagement proposed herein.

6. Subject to approval by the Court, this Application shall constitute the Trustee's agreement to employ and compensate Kutak Rock LLP. The Trustee has advised Kutak Rock LLP that its compensation will be in accordance with 11 U.S.C. § 330, in compliance with Rule 2016

of the Federal Rules of Bankruptcy Procedure (and any applicable Local Rules), and subject to the approval of this Court.

**Legal Authority**

7. The Bankruptcy Code authorizes trustees to employ professionals to assist the trustee in completing the trustee's duties in a case such as this one. Specifically, section 327(a) of the Bankruptcy Code provides, in pertinent part, as follows:

Except as otherwise provided in this section, the trustee, with the court's approval, may employ one or more attorneys, accountants, appraisers, auctioneers, or other professional persons, that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist the trustee in carrying out the trustee's duties under this title.

11 U.S.C. § 327(a). In addition, section 327(d) of the Bankruptcy Code provides:

The court may authorize the trustee to act as attorney or accountant for the estate if such authorization is in the best interest of the estate.

11 U.S.C. § 327(d). Accordingly, the Trustee asserts that the relief requested is supported by applicable law and is in the best interest of the estate.

**Disinterestedness**

8. Except as described herein, the Trustee believes that Kutak Rock LLP does not have any connections with the Debtors, creditors, or any other party in interest or their respective attorneys and accountants that would prevent Kutak Rock LLP from being a "disinterested person" within the meaning of § 101(14) of the Bankruptcy Code. Filed contemporaneously herewith as **Exhibit A** hereto is the Verified Statement of Kutak Rock LLP attesting to the status, condition and/or exceptions to any of these connections.

9. The Trustee understands that Kutak Rock hereby intends to apply to the Court for

allowance of compensation and reimbursement of expenses in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules, and any orders of this Court for all services performed and expenses incurred after the Petition Date.

**Notice**

10. Notice of this Application has been given to the parties listed on the attached Certificate of Service. The Trustee submits that no other or further notice is required.

WHEREFORE, the Trustee hereby requests that this Court (i) enter an order substantially in the form of the order attached hereto as **Exhibit B** granting the Trustee's request to employ Kutak Rock LLP as counsel and (ii) grant such other relief concerning this Application as may be appropriate.

**PETER J. BARRETT, TRUSTEE**

/s/ Peter J. Barrett

Peter J. Barrett (VA 46179)  
**KUTAK ROCK LLP**  
901 East Byrd Street, Suite 1000  
Richmond, Virginia 23219-4071  
Telephone: (804) 644-1700  
Facsimile: (804) 783-6192  
Peter.Barrett@kutakrock.com  
*Chapter 7 Trustee*

**CERTIFICATE OF SERVICE**

I hereby certify that on August 30, 2021, a true and correct copy of foregoing document was sent by first-class mail, postage prepaid, and/or electronic delivery to all parties receiving electronic notification and to:

Shannon Pecoraro  
Office of the United States Trustee  
701 East Broad Street, Suite 4304  
Richmond, VA 23219  
shannon.pecoraro@usdoj.gov

James E. Kane  
Kane & Papa, PC  
1313 East Cary Street  
P.O. Box 508  
Richmond, VA 23218-0508  
*Counsel for the Debtor*

/s/ Peter J. Barrett

**EXHIBIT A**

**KUTAK ROCK LLP**

Peter J. Barrett (VSB No. 46179)  
901 East Byrd Street, Suite 1000  
Richmond, Virginia 23219  
(804) 644-1700  
*Chapter 7 Trustee*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

\_\_\_\_\_  
In re:

DAVID WAYNE SCHNEIDER,

Debtor.  
\_\_\_\_\_

)  
) Chapter 7  
)  
) Case No. 21-30347 (KLP)  
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)  
)  
)

**VERIFIED STATEMENT OF KUTAK ROCK LLP**

1. The undersigned hereby verifies under penalty of perjury that Kutak Rock LLP (“Kutak Rock” or the “Firm”) does not have any connection with the above-captioned debtor, David Wayne Schneider (the “Debtor”), any creditor or other party in interest, their respective attorneys and accountants, the United States Trustee or any person employed in the Office of the United States Trustee, except that Kutak Rock may represent creditors in matters unrelated to the Debtor or this case and that the Chapter 7 Trustee in the Debtor’s case is a partner with Kutak Rock.

2. More specifically, as set forth herein, Kutak Rock and certain of its partners, counsel and associates have worked with, may currently work with and likely in the future will work with certain of the Debtors’ creditors and other parties in interest in ongoing matters unrelated to this bankruptcy case. To the best of my knowledge, none of these business relations constitute interests materially adverse to the Debtor or the bankruptcy estate.

3. In order to confirm that Kutak Rock does not represent an adverse interest, Kutak Rock has searched on its electronic database for connections with the persons and entities listed

on **Schedule 1**<sup>1</sup> hereto, which represent the Debtor's principal creditors and other parties in interest in this Bankruptcy Case. Further, **Schedule 2** attached hereto identifies certain creditors, equity holders or other parties in interest that Kutak Rock currently represents or has represented within the past five years. Unless identified on **Schedule 2** or otherwise described herein, to the best of available knowledge, Kutak Rock does not currently represent and has not represented within the past five years the parties listed on **Schedule 1** as of the date of the filing of this Application.

4. In addition, upon review, there is no indication that the employees of Kutak Rock are related to any United States District Court Judges for the Eastern District of Virginia, United States Magistrate Judges for the Eastern District of Virginia, United States Bankruptcy Judges for the Eastern District of Virginia, the U.S. Trustee with supervision over the Eastern District of Virginia, or any attorneys employed in the Richmond office of the U.S. Trustee for the Eastern District of Virginia.

5. Kutak Rock will periodically review its files during the pendency of this Bankruptcy Case to ensure that no new connections arise that warrant disclosure. If any new relevant facts or relationships are identified, Kutak Rock will promptly file a supplemental declaration with this Court, as required by Bankruptcy Rule 2014(a).

6. As of the filing of the Application, the Firm is not aware of any such representations except as disclosed on **Schedule 2** or otherwise described herein. Kutak Rock has not represented, is not representing, and will not represent any entities or any of their respective affiliates in connection with any matters that are related to the Debtors or this bankruptcy case. In the event that any litigation or other actual adversity arises in this bankruptcy case vis-à-vis any one of these

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<sup>1</sup> The Firm's inclusion of parties in the following schedules is solely to illustrate its conflict search process and is not an admission that any party has a valid claim against the Debtor or that any party properly belongs in the schedules or has a claim or legal relationship to the Debtor of the nature described in the schedules.

entities, other counsel may be engaged to represent the Trustee in connection with such litigation or actual adversity if necessary. Moreover, pursuant to section 327(c) of the Bankruptcy Code, Kutak Rock is not disqualified from acting as the Trustee's bankruptcy counsel merely because it represents certain of the Debtor's creditors or other parties in interest in matters unrelated to this bankruptcy case.

7. The foregoing constitutes the statement of Kutak Rock pursuant to section 327(a) of the Bankruptcy Code, Bankruptcy Rules 2014 and 2016, and Local Bankruptcy Rules 2014-1 and 2016-1.

**KUTAK ROCK LLP**

/s/ Jeremy S. Williams  
Its Partner

Jeremy S. Williams (VSB No. 77469)  
**KUTAK ROCK LLP**  
901 East Byrd Street, Suite 1000  
Richmond, Virginia 23219-4071  
Telephone: (804) 644-1700  
Facsimile: (804) 783-6192  
Jeremy.Williams@kutakrock.com

## SCHEDULE 1

### List of Creditors and Other Parties in Interest Searched

Aaron Evans
Atlantic Union Bank
Boulders Ambulatory Surgery
Call Federal
Call Federal Credit Union
Callfedc/u
Capital One
Capital One Auto Finance
Capital One Auto Finance, a division of AIS Portfolio Services, LP
Capital One Auto Finance, a division of Capi
Citibank North America
Citibank/Exxon Mobile
City of Richmond
Comenity Bank/Buckle
Commonwealth Anesthesia
Credit First National Association
Credit One Bank
David Bryson
David Wayne Schneider
Decision One Mortgage
Department of the Treasury – IRS – Internal Revenue Service
Deutsche Bank National Trust Company, as Tru
Discover Financial
Estate of Shirley Nesmith
Gilliam & Mikula, PLLC
Honda Financial Services
Internal Revenue Service
Internal Revenue Service Centralized Insolvency Operati
James E. Kane
John P. Fitzgerald, III
John Schneider
June Moore
Kane & Papa, PC
Kutak Rock LLP
Lafayette Ayers & Whitlock
Loanme

M&T Bank
Mariner Finance
Mercury/FBT
Midland Fund
Moore Loans
Myrna Schneider
NetCredit
Office of the U.S. Trustee
Office of the United States Attorney
Ortho Virginia
Peter J. Barrett
Razor Capital
Receivable Management Inc
Resurgent Capital Services
Richmond Commonwealth Attorney
Select Portfolio Servicing, Inc
Shirley Nesmith
SublettPearson PLC
Syncb/PPC
Syncb/Wal-mart
Synchrony Bank
Synchrony Bank/Lowes
Transworld Systems Inc
United States Bankruptcy Court
Virtuoso
Washington DC CCU
Waypoint Resource Group
Wells Fargo Home Mortgage
Wood & Wood

**SCHEDULE 2**

**Kutak Rock Disclosures**

**Conflict Search Results**

Name of Entity Searched	Name of Entity and/or Affiliate of Entity that is a Kutak Rock LLP Client	Status	Nature of Representation
Atlantic Union Bank	Atlantic Union Bank	Current	Representation of client in unrelated matters
Deutsche Bank	Deutsche Bank AG	Current	Representation of client in unrelated matters
	Deutsche Bank National Trust Company	Former	Representation of client in unrelated matters
	Deutsche Bank Securities, Inc.	Current	Representation of client in unrelated matters
	Deutsche Bank AG, New York Branch	Current	Representation of client in unrelated matters
Capital One	Capital One Financial Corporation	Current	Representation of client in unrelated matters
	Capital One Public Funding, LLC	Current	Representation of client in unrelated matters
	Capital One, NA	Former	Representation of client in unrelated matters
	Capital One, Na. Corporate Finance	Current	Representation of client in unrelated matters
	Capital One, NA Dealer Financing	Current	Representation of client in unrelated matters
	Capital One, NA Franchise Finance	Current	Representation of client in unrelated matters
M&T Bank	M&T Bank	Current	Representation of client in unrelated matters
Select Portfolio Servicing	Select Portfolio Servicing, Inc.	Current	Representation of client in unrelated matters

**EXHIBIT B**

**Proposed Order**

**KUTAK ROCK LLP**

Peter J. Barrett (VSB No. 46179)  
901 East Byrd Street, Suite 1000  
Richmond, Virginia 23219  
(804) 644-1700  
*Chapter 7 Trustee*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
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\_\_\_\_\_  
In re:

DAVID WAYNE SCHNEIDER,

Debtor.  
\_\_\_\_\_

)  
) Chapter 7  
)  
) Case No. 21-30347 (KLP)  
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**ORDER GRANTING APPLICATION TO EMPLOY KUTAK ROCK LLP  
AS COUNSEL FOR THE TRUSTEE**

This matter came before the Court upon the *Application to Employ Kutak Rock LLP as Counsel for the Trustee* (the “Application”) filed by Peter J. Barrett, Trustee for the Bankruptcy Estate of David Wayne Schneider (the “Trustee”), pursuant to 11 U.S.C. § 327 and Rule 2014 of the Federal Rules of Bankruptcy Procedures; and it appearing that the relief requested in the Application is appropriate and the good cause otherwise exists to grant the relief provided for herein, it is hereby **ORDERED, ADJUDGED AND DECREED THAT:**

1. The Application is approved.
2. Kutak Rock LLP is authorized to serve as counsel for the Trustee.
3. Kutak Rock LLP shall be compensated in accordance with 11 U.S.C. § 330 and Rule 2016 of the Federal Rules of Bankruptcy Procedure and the approval of the Court.
4. No further service of this Order is required as all necessary parties shall receive service via CM/ECF.

Dated: \_\_\_\_\_  
Richmond, Virginia

\_\_\_\_\_  
UNITED STATES BANKRUPTCY JUDGE

I ask for this:

/s/ Peter J. Barrett

Peter J. Barrett (VA 46179)

**KUTAK ROCK LLP**

901 East Byrd Street, Suite 1000

Richmond, Virginia 23219-4071

Telephone: (804) 644-1700

Facsimile: (804) 783-6192

Peter.Barrett@kutakrock.com

*Chapter 7 Trustee*

Seen and No Objection:

Shannon Pecoraro (VA 46864)

Office of the U.S. Trustee

701 East Broad Street

Suite 4304

Richmond, Virginia 23219

*Trial Attorney*

**CERTIFICATION OF ENDORSEMENT  
UNDER LOCAL BANKRUPTCY RULE 9022-1(C)**

Pursuant to Local Bankruptcy Rule 9022-1(C), I hereby certify that the foregoing proposed order has been endorsed by or served upon all necessary parties.

/s/ Peter J. Barrett

**SERVICE LIST**

Shannon Pecoraro  
Office of the United States Trustee  
701 East Broad Street, Suite 4304  
Richmond, VA 23219

James E. Kane  
Kane & PaPa, PC  
1313 East Cary Street  
P.O. Box 508  
Richmond, VA 23218-0508  
*Counsel for the Debtor*